

Jorman



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Frederick H. Kalhammer - Educational Travel Allowances - Use of Foreign Airline and Travel Within United States
File: B-198930.3
Date: June 25, 1990

DIGEST

1. Employee may be reimbursed for the cost of his 15- and 16-year old dependent children's travel between their school in Florida and his post in Honduras during spring recess on a foreign air carrier. While there was a U.S. carrier that might have provided service, its service was unreliable (often late and flights cancelled without notice), and its use would have required an overnight stay in a hotel. Therefore, considering the ages of the children and the fact they were traveling without an accompanying adult, use of the foreign carrier is considered to have been necessary.
2. Educational travel allowance may not be used to reimburse employee where children traveled from their school in Florida to join their parents in California during Christmas recess in lieu of joining them at their overseas post in Honduras. The allowance is available only for trips to visit their parents at overseas points.

DECISION

An authorized certifying officer of the Agency for International Development (AID) asks whether an employee of that agency, Mr. Frederick H. Kalhammer, may be reimbursed for the airfare expenses he incurred for use of a foreign-flag airline for his dependent children to travel from Miami, Florida, to Honduras and return during their spring school recess in 1987. We also are asked whether he may be reimbursed for the airfare expenses resulting from his children's travel from Miami to California during their 1986 Christmas recess.^{1/} As explained

^{1/} The AID Controller at Mr. Kalhammer's post in Honduras disallowed both claims, and pursuant to Mr. Kalhammer's request, the Certifying Officer, Bruce K. Birnberg, Office of Financial Management, USIA, Washington, D.C., forwarded them for our decision.

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below, we conclude that Mr. Kalhammer may be reimbursed for the trip his children took during spring break to and from Honduras because the record reasonably establishes the necessity for use of the foreign-flag airline. However, he may not be reimbursed for the Christmas travel because such travel is not covered by the Educational Travel Allowance since it was between two points within the United States.

Spring Recess Travel

Mr. Kalhammer's children, who were 15 and 16 years old, attended boarding school in Boca Raton, Florida, about 50 miles north of Miami. When their school closed for spring recess on March 13, 1987, the children embarked on a trip from Miami to Honduras on TAN Airlines, the Honduran national carrier. Mr. Kalhammer states that TAN was used because no U.S. carrier was scheduled to provide that service on March 13. He also states that Challenge International, the U.S. carrier scheduled to provide the service on March 14, within 24 hours of the TAN flight, was very unreliable and, in addition, its use would have required the children to stay overnight in Miami because their school closed on March 13. Challenge also was scheduled to provide return service on March 29, 1987, the date the children returned to school, but Mr. Kalhammer states that they did not use it because of its unreliability and because the scheduled flight would have arrived too late at night for the children to have met their school's check-in time of 8 p.m.^{2/} Mr. Kalhammer also states that Challenge did not actually provide the scheduled service on March 29, 1987.

The AID official in Honduras who disallowed Mr. Kalhammer's claims states that these extenuating circumstances and reason dictate that Mr. Kalhammer should be reimbursed for these flights, but as he interprets the regulations, they do not provide him authority to do so. He also furnished copies of correspondence documenting the complaints the U.S. Embassy had with the unreliable service Challenge was providing in 1987 and notice of the carrier's subsequent discontinuance of service in September 1987, apparently due to bankruptcy.

The Fly America Act, 49 U.S.C. App. § 1517, prohibits the expenditure of appropriated funds for government-financed air transportation on a foreign air carrier unless U.S. air carriers are unavailable. This Office is required by that act

^{2/} The schedule the agency furnished shows Challenge to arrive in Miami at 7:35 p.m., but Mr. Kalhammer indicates it was often late. In addition the children had to collect their baggage, clear customs and travel the 50 miles from Miami to school.

to disallow any expenditure for travel by a foreign air carrier in the absence of satisfactory proof of necessity thereof. See 49 U.S.C. App. § 1517(d), and, General William Coleman, USAF, et al., B-206723, Oct. 21, 1982. At the time of the travel of Mr. Kalhammer's children, the Fly America Act was implemented by 6 Foreign Affairs Manual (FAM) 134 for AID employees.

Section 134.1 of 6 FAM sets forth the general policy of the Fly America Act that all government-financed air travel be performed on U.S. air carriers where such service is available. And 6 FAM 134.3b provides that the traveler's mere convenience or preference are not sufficient reasons to use a foreign carrier in lieu of an available U.S. carrier.

In this case, however, we believe that the foreign carrier was not used for mere convenience or preference and that the U.S. carrier can be considered to have been unavailable. In our view, the fact that the travelers were unaccompanied children and the agency's documented record of concern regarding the reliability of the carrier are sufficient to support a determination that use of a foreign carrier was necessary. See 57 Comp. Gen. 519, 522 (1978). Accordingly, Mr. Kalhammer may be reimbursed for this travel.

Christmas Recess Travel

Mr. Kalhammer states that the children traveled with him from Florida to California during their 1986 Christmas recess for the purpose of joining their mother in California where she had traveled earlier from Honduras due to her father's illness and death. After Christmas recess the children returned from California to Florida. Mr. Kalhammer claims the children's airfare for this travel on the basis that it was in lieu of the trip they would have been authorized to join their parents in Honduras.

There is no authority, however, to pay for this trip under the Educational Travel Allowance provision of 5 U.S.C. § 5924(4). The Educational Travel Allowance provision grants authority for reimbursement incident to dependents' travel expenses between the foreign post of the employee and the school as a means of assisting employees with expenses incurred because of their service in a foreign area. A trip wholly within the continental United States, such as here,

does not fall within the Educational Travel Allowance's parameters. See 5 U.S.C. § 5924(4), and State Department Standardized Regulations, ch. 282, May 22, 1988. Accordingly, the employee's claim for the California travel cannot be allowed.

for Milton J. Fowler
Comptroller General
of the United States